

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>MAURICIO WIOR,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>v.</b>	)	<b>NO. 1:15-cv-02375-ELR</b>
	)	
<b>BELLSOUTH CORPORATION,</b>	)	
	)	
<b>Respondent.</b>	)	

**RESPONDENT’S CROSS MOTION TO STAY LITIGATION AND  
COMPEL ARBITRATION**

Respondent BellSouth Corporation (n/k/a BellSouth, LLC) hereby files this Cross Motion to Stay Litigation and Compel Arbitration (the “Cross Motion”) of the claims set forth in the Petition (“Petition”) and the Motion for Stay of Arbitration (the “Motion”) filed by Petitioner Mauricio Wior (“Petitioner” or “Wior”).

The Petition and Motion allege that an arbitration commenced by BellSouth and now pending before the American Arbitration Association (the “AAA”) are time-barred by Georgia’s six-year statute of limitations for breach of contract claims. This dispute, including Wior’s statute of limitations defense, is subject to an international arbitration agreement that is binding on the parties pursuant to the

Federal Arbitration Act, 9 U.S.C. § 1 *et seq.* (the “FAA”) and the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”), implemented in the United States by Chapter II of the FAA. 9 U.S.C. § 201.

Thus, Wior has brought his Petition and Motion in the wrong forum: under controlling Supreme Court and Eleventh Circuit precedent, the Arbitrator and not the Court has jurisdiction to resolve all of the parties’ disputes, including but not limited to the arbitrability of the issues presented in Wior’s Petition and Motion and the gateway issues relating to Wior’s statute of limitations defense.

Moreover, even if Wior had presented issues that fall within the authority of the Court rather than the Arbitrator, which he has not, Wior’s statute of limitations defense fails because: (1) under the FAA and the AAA’s arbitration rules (the “AAA Rules”), which the parties expressly agreed would govern any arbitration, there is no statute of limitations; and (2) contrary to Wior’s argument, the parties have not incorporated into their agreement the statute of limitations provisions of the Georgia Arbitration Code (“GAC”). Thus, even if the Court did have the authority to reach the merits of the statute of limitations defense, the Court should still reject the defense.

Wherefore, Respondent moves the Court for an order staying this litigation and compelling the parties to arbitrate.

Respectfully submitted this 19<sup>th</sup> day of October, 2015.

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	)	
<b>Respondent.</b>	)	
	)	

**LR 5.1(C) CERTIFICATE**

I hereby certify, pursuant to LR 5.1(C), that this document was prepared in Times New Roman font, 14-point, in accordance with LR 5.1(C).

This 19<sup>th</sup> day of October, 2015.

/s/ David L. Balser  
David L. Balser

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	)	
<b>Respondent.</b>	)	
	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on October 19, 2015, I electronically filed **RESPONDENT'S CROSS MOTION TO STAY LITIGATION AND COMPEL ARBITRATION** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorney of record:

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/s/ David L. Balser

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